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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,773	08/10/2001	Russell O. Potts	0240.02	6897

7590

06/04/2004

CYGNUS, INC.
Intellectual Property Dept.
400 Penobscot Drive
Redwood City, CA 94063

EXAMINER

MORAN, MARJORIE A

ART UNIT PAPER NUMBER

1631

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/927,773	Applicant(s) POTTS ET AL.	
	Examiner Marjorie A. Moran	Art Unit 1631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 19 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): 112, 2nd paragraph of claims 7, 25, 34.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

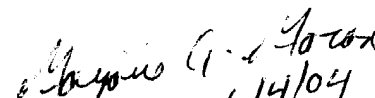
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-7 and 10-36.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


 Marjorie A. Moran
 Primary Examiner
 Art Unit: 1631

Continuation of 5. does NOT place the application in condition for allowance because: the examiner maintains that the prior art of KURNIK and TAMADA make obvious the limitations of the claims for the reasons previously set forth. In response to the argument set forth on page 4 of the response that neither KURNIK nor TAMADA teach measurement of skin conductance or temperature in order to IMPROVE a prediction of a hypoglycemic event, it is noted that the claims do not recite an improvement. Further, no evidence has been filed to show that the claimed method is an improvement over prior art methods; e.g. that of KURNIK. In response to the repeated arguments that KURNIK teaches use of skin conductance and temperature only in the context of sensor signals, applicant is directed to page 42, line 30-page 43, line 7 wherein KURNIK teaches that a variety of inputs may be used to provide a blood glucose measurement, including skin temperature and skin conductivity. The examiner maintains that KURNIK predicts hypoglycemia by both determining a predicted measurement value of glucose and by determining a parameter value of trend of parameter values; see e.g. pages 45-49. It is again noted that the rejection is made over a combination of references wherein TAMADA specifically teaches comparison to a threshold value for prediction of hypoglycemia. The argument that TAMADA does not teach comparison of skin conductance or temperature values to a threshold value is moot as TAMADA is not relied upon for a teaching of measurement of skin conductance or temperature. Arguments with regard to obviousness and motivation were addressed in the final office action .